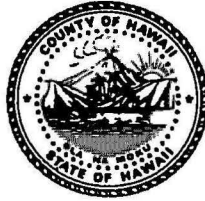


Harry Kim
Mayor

Roy Takemoto
Managing Director

West Hawai'i Office
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Kailua-Kona, Hawai'i 96740
Phone (808) 323-4770
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County of Hawai'i
PLANNING DEPARTMENT

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Director

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Phone (808) 961-8288
Fax (808) 961-8742

JUN 17 2020

Mr. Robert Jacobson
P. O. Box 900
Kurtistown, HI 96760


Dear Mr. Jacobson:

SUBJECT; Special Permit No. SPP 20-000213
Applicant: Lois Margaret Drake and Robert Peter Jacobson
Permitted Use: Allows the Development of a Church Complex and Accessory
Improvements
Tax Map Key: 1-5-048:197

This letter is in follow up to the Windward Planning Commission letter dated June 15, 2020. Apparently, the subject heading referenced Special Permit No. SPP 19-000213 which is inadvertently incorrect and should had reflected **SPP-20-000213**. Therefore, would you please replace the first page of your letter with the enclosed letter.

Should you have any questions, please contact our office.

Sincerely,


MICHAEL YEE
Planning Director

Lcorrectedpg1DrakeJacobsonSPP20-213wpc

JUN 18 2020

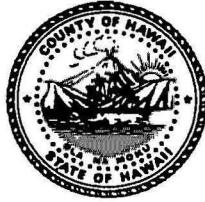
Mr. Robert Jacobson

Page 2

cc: Department of Public Works
Department of Water Supply
County Real Property Tax Division
State Land Use Commission
State DLNR-HPD
State Department of Health
US Fish and Wildlife Service
Plan Approval Section
GIS Section

Harry Kim
Mayor

Roy Takemoto
Managing Director



Thomas Raffipiy, Chair
John Replogle, Vice-Chair
Gilbert Aguinaldo
Dean Au
Joseph Clarkson

County of Hawai'i

WINDWARD PLANNING COMMISSION

Aupuni Center • 101 Pauahi Street, Suite 3 • Hilo, Hawai'i 96720
Phone (808) 961-8288 • Fax (808) 961-8742

Mr. Robert Jacobson
P. O. Box 900
Kurtistown, HI 96760

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SUBJECT; Special Permit No. SPP 20-000213
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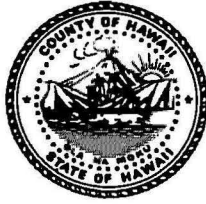
The Windward Planning Commission, at its meeting on June 4, 2020, considered the above-referenced request to allow the development of a church complex and accessory improvements on a one-acre property situated in the State Land Use Agricultural District. The property is located at 15-1791 14th Avenue, about 1,000 feet southeast of the 14th Avenue-Paradise Drive intersection, Hawaiian Paradise Park, Kea'au, Puna, Hawai'i.

Approval of this permit is subject to the following conditions:

1. The applicant(s), its successor(s) or assign(s) shall be responsible for complying with all of the stated conditions of approval.
2. The proposed Church facility shall be conducted in a manner that is substantially representative of plans and details contained within the Special Permit Application dated February 19, 2020, any supplemental material, and the representations made before the Windward Planning Commission. Any substantial expansion of the facility or uses beyond what is represented in these documents or information shall require an amendment to this permit.

Harry Kim
Mayor

Roy Takemoto
Managing Director



Thomas Raffipiy, Chair
John Replogle, Vice-Chair
Gilbert Aguinaldo
Dean Au
Joseph Clarkson

County of Hawai'i

WINDWARD PLANNING COMMISSION

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Phone (808) 961-8288 • Fax (808) 961-8742

JUN 15 2020

Mr. Robert Jacobson
P. O. Box 900
Kurtistown, HI 96760

Dear Ms. Stone:

SUBJECT; Special Permit No. SPP ²⁰19-000213
Applicant: Lois Margaret Drake and Robert Peter Jacobson
Permitted Use: Allows the Development of a Church Complex and Accessory
Improvements
Tax Map Key: 1-5-048:197

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JUN 16 2020

3. Construction of the proposed Church facility shall be completed within ten (10) years from the effective date of this permit. Prior to construction, the applicant(s), successor(s) or assign(s) shall secure Final Plan Approval for the proposed development from the Planning Director in accordance with Section 25-2-70, Chapter 25 (Zoning Code), Hawai'i County Code. Plans shall identify all existing and/or proposed structure(s), paved driveway access and parking stalls associated with the proposed development. Landscaping shall be indicated on the plans for the purpose of mitigating any adverse noise or visual impacts to adjacent properties in accordance with the requirements of Planning Department's Rule No. 17 (Landscaping Requirements) and Chapter 25 (Zoning Code), Hawai'i County Code.
4. Facility parking will be entirely on site with no parking allowed on 14th Avenue Road.
5. Any exterior signs shall meet with the approval of the Department of Public Works.
6. All development generated runoff shall be disposed of on-site and shall not be directed toward any adjacent properties.
7. All driveway connections to 14th Avenue shall conform to Chapter 22, County Streets, of the Hawai'i County Code.
8. During the conversion construction phase, measures shall be taken to minimize the potential of both fugitive dust, runoff sedimentation and littering. Such measures shall be in compliance with construction industry standards and practices utilized during construction projects of the State of Hawai'i.
9. All earthwork activity, including grading and grubbing, shall conform to Chapter 10, Erosion and Sedimentation Control, of the Hawai'i County Code.
10. Construction activities must comply with the provisions of Hawai'i Administrative Rules, Chapter 11-46, "Community Noise Control."
11. The applicant shall upgrade the individual wastewater system meeting with the requirements of the Department of Health prior to Certificate of Occupancy.
12. The applicant shall upgrade the necessary Fire protection devices meeting with the requirements of the County of Hawaii Fire Department prior to Certificate of Occupancy.

13. To protect any Hawaiian hoary bats in the vicinity of the property, barbed wire fencing shall not be used in the permit area and woody vegetation over 15 feet in height shall not be removed during bat breeding season of June 1st to September 15th without first conducting surveys for bat nests and coordinating with US Fish and Wildlife Service if nests are found. Surveys shall be conducted by a qualified biologist.
14. To protect any Hawaiian hawk in the vicinity of the property, clearing and grubbing activities shall not occur in the permit area during hawk breeding season of March to September and goose breeding season of October to March without first conducting surveys for hawk and goose nests and coordinating with US Fish and Wildlife Service if nests are found. Surveys shall be conducted by a qualified biologist.
15. To protect any seabirds (Hawaiian petrels and Newell's shearwaters) in the vicinity of the property, the applicant shall install shielded outdoor lights to direct light downwards.
16. Should any remains of historic sites, such as rock walls, terraces, platforms, marine shell concentrations or human burials be encountered, work in the immediate area shall cease and the Department of Land and Natural Resources - State Historic Preservation Division (DLNR-SHPD) shall be immediately notified. Subsequent work shall proceed upon an archaeological clearance from DLNR-SHPD when it finds that sufficient mitigative measures have been taken.
17. The applicant shall comply with all applicable County, State and Federal laws, rules, regulations and requirements.
18. An initial extension of time for the performance of conditions within the permit may be granted by the Director upon the following circumstances:
 - a) The non-performance is the result of conditions that could not have been foreseen or are beyond the control of the applicant, successors or assigns, and that are not the result of their fault or negligence.
 - b) Granting of the time extension would not be contrary to the General Plan or Zoning Code.
 - c) Granting of the time extension would not be contrary to the original reasons for the granting of the permit.
 - d) The time extension shall be for a period not to exceed the period originally granted for performance (i.e., a condition to be performed within one year may be extended for up to one additional year).

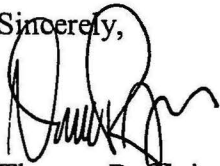
19. Should any of these conditions not be met or substantially complied with in a timely fashion, the Planning Director may initiate procedures to revoke this Special Permit.

This approval does not, however, sanction the specific plans submitted with the application as they may be subject to change given specific code and regulatory requirements of the affected agencies.

Approval of this permit is based on the reasons given in the attached Findings Report.

Should you have any questions, please contact Alex Roy of the Planning Department at 961-8140.

Sincerely,



Thomas Rafferty, Chair
Windward Planning Commission

LDrakeJacobsonSPP20-213wpc

Enclosure: PC Findings

cc: Department of Public Works
Department of Water Supply
County Real Property Tax Division
State Land Use Commission
State DLNR-HPD
State Department of Health
US Fish and Wildlife Service
Plan Approval Section
GIS Section

COUNTY OF HAWAI'I
PLANNING COMMISSION FINDINGS

LOIS MARGARET DRAKE AND ROBERT JACOBSON
SPECIAL PERMIT APPLICATION (SPP 20-000213)

Based on the following findings, Special Permit No. 20-000213 is hereby approved to allow the conversion of a Single-Family Residence to a legitimate Church Facility on a one (1) acre parcel of land within the State Land Use Agricultural District. The subject parcel is located at 15-1791 14th Avenue, about 1,000 feet southeast of the 14th Avenue-Paradise Drive intersection, Hawaiian Paradise Park, Kea'au, Puna, Hawai'i, TMK: (3) 1-5-048:197.

The applicant is proposing to change the use of the subject property and existing structure from a single-family residence to a multi-use Church facility to accommodate a number of Church related uses and activities. There is currently one (1) existing structure on the property designed as a three (3) bedroom single family residence and attached outbuilding with a separate kitchenette and bathroom. There is a proposal to construct a new chapel on the property, approximately 40-feet by 100-feet to accommodate an increasing membership in the community. Appropriate parking, ingress/egress, septic system upgrades, water system upgrades, and associated fire safety requirements will be included as required.

The following outlines some of the uses and hours of operation that will be a function of the Church facility:

- Sunday Service: 8:30AM to 1:30PM;
- Afternoon meetings: 12 NOON to 5:00PM weekdays;
- Holiday gatherings: (typically) 12 NOON to 6:00PM (note: rare holiday events may run as late as 9:30PM);
- Weekend Events (e.g., Art Events): Saturday and Sunday from 8:00AM to 6:00PM;
- Weddings and other large events in new Chapel (if approved): 8:00 AM to 8:00 PM;
- Religious education (if rooms available): 9:00AM to 1:00PM daily;
- Other educational uses (current and future): 8:00AM to 5:00PM per event;
- Volunteers and parishioners can be expected to be on premises daily from 8:00AM to 6:00PM as part of the property management.

The applicant states that the existing structure will be renovated under appropriate permits for all uses conducted as part of the Church function. Any permit deficiencies will be corrected in the conversion process.

The applicant's objective of the proposed project is to recognize and legitimize the current uses by the Unitarian Universalists of Puna (UUOP), as well as to apply for the proposed future uses to create a functional Church facility that helps to grow the congregation and aims to provide services, events and outreach to the community. The applicant states that as the residential areas of the Puna District continue to grow, there will be a need to accommodate the various community's needs, including the opportunity to be within the community that it wishes to serve.

The grounds for approving a Special Permit is based on Rule 6-7 in the Planning Commission Rules. It states that the Planning Commission shall not approve a Special Permit unless it is found that the proposed use (a) is an unusual and reasonable use of land situated within the Agricultural or Rural District, whichever the case may be; and (b) the proposed use would promote the effectiveness and objectives of Chapter 205, Hawaii Revised Statutes, as amended.

The proposed use is an unusual and reasonable use of land situated within the State Land Use Agricultural District and would promote the effectiveness and objectives of the State Land Use Law and Regulations and Chapter 205, HRS, as amended. The State Land Use Law and Regulations are intended to preserve, protect and encourage the development of lands for those uses to which they are best suited in the interest of the public welfare of the people of the State of Hawai'i. In the case of the Agricultural District, the intent is to preserve or keep lands of high agricultural potential in agricultural use.

The proposed use is unusual in that a Church facility is not normally considered agricultural in nature. However, it is reasonable for a Church to be considered within the Agricultural district because communities within agricultural districts require certain services that support the agricultural community in which they are located, including religious services.

In recognizing that lands within the Agricultural district might not be best suited for agricultural activities and yet classified as such, and in recognition that certain types of uses might not be strictly agricultural in nature, yet reasonable in such districts, the legislature has provided for the Special Permit process to allow certain unusual and reasonable uses within the Agricultural district. In addition, the State Land Use Law and Regulations are intended to preserve, protect and encourage the development of lands in the State for those uses to which they are best suited in the interest of the public health and welfare of the people of the State of Hawai'i. In the case of the Agricultural District, the intent is to preserve or keep lands of high agricultural potential in agricultural use.

The subject property is 1.0 acre in size and is developed with a single-family residential dwelling, with an attached multi-purpose room with a kitchenette and restroom. There is an unimproved driveway and parking area that includes grass, and the property is fairly level and cleared, barring some minor vegetation typical for the area. It is situated within the State Land Use Agricultural district and the County's Agricultural 1-acre (A-1a) zoning district. The land on which the proposed use is located is categorized as "unclassified" by the Agricultural Lands of Significance to the State of Hawai'i (ALISH) Map. The sites soil classification is "E" or "very poor" by the Land Study Bureau's Detailed Land Classification System and is identified as "rLV" or "*Lava Flows, A'a*" which consists of rough broken lava with no significant soil cover.

The proposed use is considered an unusual and reasonable use of agricultural land that will not adversely affect the preservation and agricultural use of the County's prime agricultural lands and is not contrary to the objectives sought to be accomplished by the State Land Use Law and Regulations.

In addition to the above listed criteria, the Planning Commission shall also consider the criteria listed under Section 6-3(b) (5) (A) through (G). In considering the criteria, the Planning Director recommends the following:

(A) The granting of this special permit request would promote the effectiveness and objectives of Chapter 205, Hawaii Revised Statutes, as amended. As evaluated above, the proposed request is considered an unusual and reasonable use of the agricultural land and the proposed use will not adversely affect the preservation and agricultural use of the County's unclassified agricultural lands.

(B) The desired use would not adversely affect surrounding properties. All properties in the vicinity are similarly zoned Agricultural 1-acre (A-1a) as it is within the Hawaiian paradise Park (HPP) Subdivision. Surrounding properties are similarly zoned A-1a and are either vacant or in residential use, however, one of the largest orchid growing operations in Hawai'i (Newman's Nursery, Inc.) is located directly across the street from the subject parcel and has been in operation since 1987.

Based on the above discussion, the proposed use is not anticipated to have a substantial adverse impact on the surrounding properties, however, any possible impacts can be minimized through conditions of approval.

(C) Such use shall not unreasonably burden public agencies to provide roads and streets, sewers, water, drainage, school improvements, and police and fire protection. The proposed project is located on 14th Avenue in HPP, approximately 1,000 feet southeast of the 14th Avenue-Paradise Drive intersection. Traffic in this area is generally low and made up primarily of residents. The proposed use could generate an increase in traffic to the subject site, depending on the type of service, meeting or event. Based on the proposed use and the applicants estimate of the potential number of persons visiting the site for particular events, the Planning Department does not feel a traffic Impact assessment is necessary. There is access to the parcel from 14th avenue with an unimproved driveway. Parking areas, and two access points will be developed for the Church facility, and parking will be entirely on site, with no parking permitted on 14th Avenue. ADA compliant parking stalls will be established on the property for the facility as needed. Electricity and telephone are available to the property. The subject parcel is within Zone X, defined as an area with a minimal flood hazard. A condition of approval will be included to require that the applicant will meet all applicable County, State and Federal laws, rules, regulations and requirements.

The proposed use would generate a slight increase in traffic to the subject site, however, the increase would be limited to off-peak times such as Sunday mornings and are typical for these types of Church facilities.

The subject property is currently serviced by a 25,000-gallon private water catchment system and does not have access to any public water system. In order to accommodate the certified kitchen as well as fire protection for the Church facility, the applicant may be required to install additional water devices and/or improvements as required by the Department of Public Works, the State Department of Health and/or the County Fire Department.

(D) Unusual conditions, trends, and needs have arisen since district boundaries and regulations were established. In the 1960's and 1970's, the State's agricultural district boundaries and regulations were established and subsequently

amended pursuant to HRS Chapter 205. The State Land Use Commission was created in 1961, and interim regulations and temporary district boundaries became effective in 1962. Subsequently, the regulations and Land Use District Boundaries became effective in August of 1964. The property and surrounding area are designated for agricultural uses by both State and County land use laws. Through the issuance of a Special Permit, various “non-agricultural” services may be allowed, including a Church facility.

(E) The land upon which the proposed use is sought is unsuited for the uses permitted within the district. The property is situated on soil identified as Pana‘ewa very cobbly hydrous loam, classified as “E” or “very poor” by the Land Study Bureau’s Overall Master Productivity Rating. Additionally, the property is categorized as “Unclassified” by the Department of Agriculture’s ALISH Map. The proposed Church facility will utilize the existing structure, with future plans to develop a new Chapel on the parcel. As part of the proposed future uses of the property, the applicant will be working to establish agricultural crops to provide for the Church as well as to provide for educational opportunities for the community and Church members. Based on the above information, the land on which the proposed use is sought may be unsuitable for the more common uses found within the agricultural district such as large scale farming, however, it should be noted that agriculture will be conducted on the property as part of the overall Church facility plan.

(F) The use will not substantially alter or change the essential character of the land and the present use. The proposed Church facility will be conducted within the existing single-family dwelling structure located on the parcel, with a future plan to construct a new chapel building adjacent to the existing building. A new parking area and entrance will also be constructed to accommodate the congregation, as well as other required improvements to water and septic systems all within the one (1) acre parcel. The applicants aim to begin construction within six (6) months after securing all required construction permits. The future Chapel would be built within five (5) to ten (10) years when the congregation grows and raises money for the proposed building. After review of the proposed project in relation to the current/proposed use and parcel size it appears the proposed project will not substantially alter or change the essential character of the of the land and present use.

(G) The request will not be contrary to the General Plan, official Community Development Plan and other documents such as Design Plans. The County of Hawai‘i’s General Plan is the policy document for the long-range comprehensive development of the island of Hawai‘i. One of the purposes of the General Plan is to guide the pattern of future development in this County based on long-term goals. The General Plan Land Use Pattern Allocation Guide (LUPAG) Map designates the property as *Rural* (rur), these are areas that include existing subdivisions in the State Land Use Agricultural and Rural districts that have a significant residential component. These subdivisions may contain uses that serve the residential and agricultural community in the area and contain community and public facilities. The proposed use is considered a community facility as it will provide spiritual support for residents within the HPP subdivision and surrounding areas. The request is not contrary to the Land Use Pattern Allocation Guide (LUPAG) Map designation for this area and complements the Land Use and Economic elements of the General Plan. As the Land Study Bureau

classification of the subject parcel is “E” or “very poor”, the parcels agricultural value is limited, however, the proposed project includes agriculture and agricultural education as part of the overall plan. Staff notes that the General Plan indicates the location of urban and rural uses should be evaluated from the standpoint of how each use services existing, and future land uses of the surrounding area.

Based on the proceeding, the proposed use aligns with the goals and policies of the economic and land use elements of the General Plan:

Economic:

- Provide residents with opportunities to improve their quality of life through economic development that enhances the County’s natural and social environments;
- Economic development and improvement shall be in balance with the physical, social and cultural environments of the island of Hawai‘i; and
- Provide and economic environment that allows new, expanded, or improved economic opportunities that are compatible with the County’s cultural natural and social environment.

Land Use:

- Designate and allocate the land uses in appropriate proportions and mix and in keeping with the social, cultural, and physical environments of the County;
- Encourage the development and maintenance of communities meeting the needs of its residents in balance with the physical and social environment;
- Distribution of uses shall be such as to best meet the demands of neighborhood, community and regional needs; and
- The development of church facilities should be designed to fit into the locale with minimum intrusion while providing the desired services.

The Puna Community Development Plan does not specifically address Special Permits for Church’s on agricultural lands, however, the PCDP generally supports the development of social services and community support facilities for the residents of Puna.

Approval of the proposed request will allow the applicant an opportunity to improve the quality of life in this area while providing a service to residents in the community.

The proposed use is not contrary to the objectives sought to be accomplished by Chapter 205A, Hawai‘i Revised Statutes, relating to coastal zone management program. The subject property is not located within the Special Management Area and is within the FEMA Flood Zone X, which designates an area of minimal flood hazard. Given the fact that the property has been previously cleared, landscaped and developed with an existing single-family dwelling and an unimproved parking area, it is unlikely that any archaeological features and threatened plant, animal or avian species will be adversely affected. There is no designated public access to the mountain areas over the property.

Based on the preceding, the proposed Church facility will not adversely impact any recreational resources, including access to and along the shoreline, scenic and open space resources, coastal ecosystems, and marine and coastal resources. Further, the property will not be affected by any coastal hazards or beach erosion.

Lastly, this approval is made with the understanding that the applicant remains responsible for complying with all other applicable governmental requirements in connection with the approved use, prior to its commencement or establishment upon the subject property. Additional governmental requirements may include but are not limited to the issuance of building permits, the installation of approved wastewater disposal systems, compliance with the Fire Code, installation of improvements required by the American with Disabilities Act (ADA), and State Department of Health approval. Compliance with all applicable governmental requirements is a condition of this approval; failure to comply with such requirements will be considered a violation that may result in enforcement action by the Planning Department and/or the affected agencies.

Based on the above, the request to convert an existing single-family dwelling into a Church facility is approved.